

## **REMARKS**

Claims 1-8, 10-15 and 19-34 are pending in the present application.

Claim 10 is amended to independent form.

Claims 21-34 are newly entered.

Reconsideration in light of the amendments and following comments is respectfully requested.

### Election Requirement

In an Official Action dated July 30, 2008 the instant application was subjected to an election of species. Applicants elected Group I (Fig. 4) and stated that claims 1-8, 10, 14, 15 and 19 read on the elected invention.

In the Official Action the Office incorrectly noted that there were no generic claims. Applicant respectfully disagrees. Claims 1-8, 14 and 15 are generic.

Claims 21-34 are newly entered.

Of the newly entered claims 21-27, 31 and 32 read on the elected invention.

Claims 11-13, 20, 28, 29, 30, 33 and 34 are withdrawn pending allowance of a generic claim at which point Applicants respectfully request that the claims be reentered for examination.

### Claim Rejections – 35 USC § 103

Claims 1-8, 14, 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Younghusband.

Younghusband is cited as teaching a tube having opposite ends and a cylindrical interior with an inherent degree of bend ability. The Office has failed to consider the full breadth of

claim 1, particularly, with regards to the tube. As set forth in claim 1 the tube is an extruded tube. One of skill in the art would find it impossible to extrude the tube of Younghusband. As illustrated in Fig. 2 of Younghusband the tube referred to therein has a sealed bottom. It is not possible to extrude an element with a sealed bottom.

Instant claim 1 specifically recites a flexible thermoplastic tube. There is no suggestion in Younghusband of a flexible thermoplastic tube. Furthermore, there is no expectation that a flexible tube would be of any advantage. The sole purpose of Younghusbands tube is to house the pipe cleaners and solvent with no other properties listed.

Instant claim 1 specifically recites that the tube is bendable to the shape of a semicircle without kinking. Such a limitation is not possible with the tube of Younghusband. The sealed end would provide a rigidity sufficient to prohibit bending in the shape of a semicircle.

Younghusband is also cited as disclosing a flexible rod. This is inconsistent with the teachings therein. Younghusband specifically states that the pipe cleaners are pliable not flexible. The Office has also failed to consider the full breadth of the claim with regards to the rod. As recited in instant claim 1, the rod is a pultruded flexible rod. A pultruded rod is, by definition, resilient and capable of returning to its original shape after being flexed. Clearly, the pipe cleaners are pliable but not flexible. If they were flexible it would be impossible to twist the wires to incorporate tufts therein.

Karalius is cited as disclosing a rod component which is rectangular. The Office then opines that one of skill in the art would find it obvious to manufacture at least a part of the rod of Younghusband in a rectangular fashion. Applicants disagree with this conclusion based on the combination forming an inoperative embodiment.

Karalius is specific to a resilient pipe cleaner. If one attempted to twist the resilient material of Karalius to include tufts therein the material would return to its original shape thereby releasing the tufts. Without the tufts there is no need for the container. Therefore, if one attempted to combine those components, which were clearly located and combined based on hindsight reconstruction, the purpose of the container would be eliminated and the instantly claimed invention is still not achieved.

For the foregoing reasons instant claim 1 is considered to be allowable. Claims 2-8, 14 and 15 ultimately depend from claim 1 and are patentable for, at least, the same reasons as claim 1.

Regarding claim 19 the tube of Younghusband is not expected to be flexible due to the sealed bottom. Such a configuration would necessarily provide rigidity to the tube and forbid flexibility. The rejection of claim 19 is improper due to the failure of the cited reference to lead one of skill in the art to the claimed invention.

The rejection of claims 1-8, 14, 15 and 19 under 35 U.S.C. 103(a) as being unpatentable over Younghusband is traversed. Withdrawal of the rejection and a notice of allowance substituted therefore is earnestly solicited.

#### Allowable Claims

Claim 10 was objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim. Claim 10 has been so amended and is now believed to be in condition for allowance.

Claims 21-32 are newly entered claims which are dependent on claim 10.

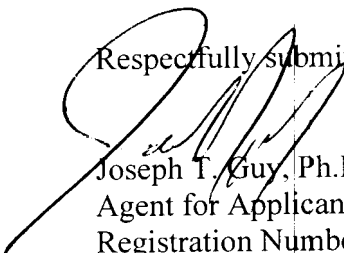
Claims 33 and 34 are newly entered claims which are dependent on claims 19 and 20, respectively, reciting the limitations of previous claim 10.

Claims 10 and 21-34 are believed to be patentable for the reasons of record.

### **CONCLUSIONS**

Claims 1-8, 10-15 and 19-34 are pending in the present application. All claims are believed to be in condition for allowance. Notice thereof is respectfully requested.

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Respectfully submitted,  
  
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